

### **Remarks**

Claims 1-20 were pending in this application. Claims 1 and 15 have been amended, claims 13-14 and 20 have been canceled, and no claims have been added. Reconsideration of this application is respectfully requested in light of the above amendments and the following remarks.

#### **Rejection of Claims 1-8, 10, and 13-20 Under 35 U.S.C. § 102(e) Over Savitzky**

Claims have been rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,771,271 issued to Savitzky et al. ("Savitzky"). In response, Applicants have amended independent claims 1 and 15 to more particularly point out and distinctly claim the subject matter of the invention.

Specifically, claim 1 has been amended to incorporate the language of former claims 13-14 and recite "the at least one software agent automatically comparing programmed, user-specified criteria with the digital image metadata to evaluate and select a subset of the digital images provided by the image server for distribution to the user." Likewise, claim 15 has been amended to incorporate the language of former claim 20 and recite "automatically comparing programmed, user-specified criteria with the digital image metadata in order to evaluate and select a subset of the digital images for distribution to the user using at least one programmable software agent in communication with the at least one image server."

In contrast to Applicants' claimed invention, Savitzky discloses a system for creating HTML pages for digital images, wherein *all* images are made available to the user after which the user can search the images (see Savitzky, Abstract; col. 3, lines 29-35; FIG. 3). Applicants' claimed invention instead employs a programmable software agent to *automatically* compare user-specified criteria with digital image metadata in order to evaluate and select a *subset* of available images for distribution to the user. As such, Applicants' invention does not present all images to a user, but rather only the subset of images in which the user is most interested. In essence, Applicants' invention provides a "standing order" for

images with certain criteria, such that whenever images with metadata matching the user-specified criteria are created, they are automatically distributed to the user. Savitzky does not disclose or suggest any type of automatic evaluation or selection of images as in Applicants' claimed invention.

Therefore, claims 1 and 15 are believed to be patentably distinguishable over Savitzky. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of these claims, along with their corresponding dependent claims, under 35 U.S.C. § 102(e).

**Rejection of Claims 9 and 11-12**  
**Under 35 U.S.C. § 103(a) Over Savitzky and Shiota**

Claims have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Savitzky in view of U.S. Patent No. 6,337,712 issued to Shiota. Claims 9 and 11-12 depend from and contain all the limitations of independent claim 1 which, for the reasons stated above, is believed to be patentably distinguishable over Savitzky, either alone or in combination with Shiota. Accordingly, reconsideration and withdrawal of the rejection of these claims is also respectfully requested.

### **Conclusion**

In summary, Applicants believe that the claims, as amended, now meet all formal and substantive requirements and that the case is in appropriate condition for allowance. Accordingly, such action is respectfully requested. If a telephone conference would expedite allowance of the case or resolve any further questions, such a call is invited at the Examiner's convenience.

A check in the amount of **\$110.00** is enclosed to cover the Petition fee. Please charge any additional fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,

**RICHARD J. HERTZ et al.**

By Stephanie M. Mansfield  
Stephanie M. Mansfield  
Reg. No. 43,773  
Attorney/Agent for Applicant

Date: January 6, 2003

**BROOKS KUSHMAN P.C.**  
1000 Town Center, 22nd Floor  
Southfield, MI 48075-1238  
Phone: 248-358-4400  
Fax: 248-358-3351